National Labor Relations Board



Weekly Summary of NLRB Cases

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National Specialties Installations, Inc. (7-CA-46698; 344 NLRB No. 2) Detroit, MI Jan. 18, 2005. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(1) of the Act by discharging employees Erin Hardcastle-Mehlhose and Matthew Mehlhose because they concertedly complained to Company President Michael Beydoun regarding their payroll checks being returned for insufficient funds. [HTML] [PDF]

The Board found merit in the General Counsel's cross-exception to the judge's ruling during the hearing that the General Counsel violated the Board's *Jencks* rule by failing to produce a July 12, 2003 notice sent to the discriminatees by their bank. See Board's Rules and Regulations § 102.118(b)-(d); see also *Jencks v. United States*, 353 U.S. 657, 667-672 (1957). But, it did not disturb the judge's factual findings regarding the July 12 notice, concluding that the judge properly declined to draw an adverse inference against the General Counsel for failing to produce the notice. The Board said it would not, however, rely on the judge's finding that the notice was "misplaced with no unlawful motive attached thereto" because there is no basis in the record for such a conclusion.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Erin Hardcastle-Mehlhose, an Individual; complaint alleged violation of Section 8(a)(1). Hearing at Detroit on July 13 and 14, 2004. Adm. Law Judge William N. Cates issued his decision Aug. 16, 2004.

WSNCHS North, Inc. d/b/a New Island Hospital (29-CA-26162; 344 NLRB No. 3) Hempstead, NY Jan. 21, 2005. The Board adopted the recommendations of the administrative law judge and held that the Respondent violated Section 8(a)(1) and (5) of the Act by refusing to furnish the information requested by the Union, New York State Nurses Association. [HTML] [PDF]

The Union filed grievances over the staffing-guideline dispute in January 2003 and demanded arbitration in September 2003. On February 11, 2004, the Union served a subpoena duces tecum on the Respondent seeking the information at issue in this case. The Respondent moved the arbitrator to quash the subpoena and as of the date of this Board's decision, the Union has not received a ruling on whether it is entitled to the requested information. Chairman Battista and Member Schaumber noted that because the arbitrator has not promptly resolved the parties' information-request dispute, deferral is inappropriate. They found it unnecessary to pass on whether, absent such a delay, the Board properly should defer an information-request allegation to arbitration where a charging party has invoked the grievance-arbitration process and has also filed a charge with the Board. Citing *Postal Service*, 302 NLRB 918 (1991), Member Liebman agreed that the Board should not defer the information-request allegation to arbitration, but would rely on the Board's longstanding policy of not deferring such matters.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by New York State Nurses Assn.; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Brooklyn on June 23, 2004. Adm. Law Judge D. Barry Morris issued his decision Aug. 20, 2004.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Teamsters Local 688 (Frito-Lay, Inc.) Bridgeton, MO January 14, 2004. 14-CB-9771; JD-4-05, Judge Mark D. Rubin.

North Hills Office Services, Inc. (Service Employees Local 32BJ) Garden City, NY January 14, 2005. 29-CA-25930; JD(NY)-5-05, Judge Raymond P. Green.

ACN-Pittsburgh, LLC, a subsidiary of American Container Net, Inc. (Teamsters Local 538) Pittsburgh, PA January 19, 2005. 6-CA-33970; JD-106-04, Judge Paul Buxbaum.

United Parcel Service and Teamsters Local 89 (Individuals) Louisville, KY January 19, 2005. 9-CA-39862, et al., 9-CB-10817, et al.; JD(ATL)-1-05, Judge Lawrence W. Cullen.

Carpenters Locals 184 and 1498 (Grayhawk Development, Inc., et al.) Phoenix, AZ January 13, 2005. 28-CC-973, et al.; JD(SF)-2-05, Judge James L. Rose.

Spartech Corp. (Sheet Metal Workers Local 170) La Mirada, CA January 18, 2004. 21-CA-36049, et al.; JD(SF)-3-05, Judge Gerald A. Wacknov.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to and adopted Reports of Regional Directors or Hearing Officers)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Delaware Avenue Enterprises, Inc., Philadelphia, PA, 4-RC-20864, January 18, 2005 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND DIRECTION [that Regional Director open and count challenged ballots]

Packaging Unlimited of Western Kentucky, LLC, Owensboro, KY, 25-RD-1453, January 18, 2005 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

American Red Cross Blood Services, Greater Ozarks-Arkansas Region, Little Rock, AR, 26-RC-8452, January 19, 2005 (Chairman Battista and Members Liebman and Schaumber)

Union Volunteer Emergency Squad, Endwell, NY, 3-RC-11507, January 19, 2005 (Chairman Battista and Members Liebman and Schaumber)

Miscellaneous Board Orders

ORDER [denying Employer's request for review of Regional Director's report on administrative investigation into showing of interest]

Whole Foods Market of California, San Francisco, CA, 20-RC-17998, January 19, 2005 (Chairman Battista and Members Liebman and Schaumber)
